

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UCC UESHIMA COFFEE COMPANY, LTD., )

Plaintiff, )

v. )

TULLY'S COFFEE CORPORATION )  
Defendant. )

No. 06-1604RSL

ORDER GRANTING MOTION FOR  
CONTINUANCE IN PART

This matter comes before the Court on plaintiff's "Motion for a Continuance of Initial Scheduling Dates." (Dkt. #5). Plaintiff seeks a one month continuance of the deadlines for the Rule 26(f) conference, the submission of initial disclosures pursuant to Rule 26(a)(1), and the submission of the parties' joint status report and discovery plan as laid out in the Court's December 1, 2006 Scheduling Order (Dkt. #3).<sup>1</sup> Plaintiff maintains that it cannot meet these deadlines because of the wide-ranging scope of discovery in the case and the difficulty of gathering materials during the winter holidays in Japan when its offices are closed and its staff is on vacation. Defendant opposes the motion and argues that it will suffer prejudice if the continuance is granted, because any delay in the resolution of the lawsuit will hamper its future

<sup>1</sup>Under the Scheduling Order, the deadline for the Rule 26(f) conference was December 29, 2006. The deadline for initial disclosures is January 5, 2007. The deadline for the joint status report is January 12, 2007.

1 efforts to compete in foreign markets.

2 A scheduling order may be modified under Federal Rule of Civil Procedure 16(b) upon a  
3 showing of good cause. Good cause is found where “the pretrial schedule ... cannot reasonably  
4 be met despite the diligence of the party seeking the extension.” Johnson v. Mammoth  
5 Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992). While the Court recognizes that the  
6 holidays have inhibited, and will inhibit, the ability of plaintiff to gather initial disclosures as  
7 quickly as it would be able to under normal circumstances, the Court does not believe such  
8 circumstances justify an extension of a full month. Plaintiff acknowledges that its employees  
9 will only be on vacation for six days during the holiday season. Even assuming that additional  
10 employee vacation days and increased end-of-year work flow will further add to the unavoidable  
11 delay in accumulating the necessary disclosures, the Court finds that a more modest extension  
12 will give plaintiff sufficient time to gather its initial disclosures while ensuring that the progress  
13 of the litigation is not unnecessarily delayed. As such, the Court orders that Rule 26(a)(1) initial  
14 disclosures shall be made by January 24, 2007 and that the parties’ joint status report shall be  
15 submitted to the Court by January 31, 2007. If parties have not already done so, they should  
16 hold a Rule 26(f) conference by January 10, 2007.

17 For all the foregoing reasons, plaintiff’s motion is GRANTED in part and DENIED in  
18 part.

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20 DATED this 3<sup>rd</sup> day of January, 2007.

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23 Robert S. Lasnik  
24 United States District Judge  
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